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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/622,830	10/18/2000	Manfred Elzenbeck	1752/49096	5406

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CROWELL & MORING  
INTELLECTUAL PROPERTY GROUP  
P.O. BOX 14300  
WASHINGTON, DC 20044-4300

EXAMINER

VU, STEPHEN A

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 01/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/622,830

Applicant(s)

ELZENBECK, MANFRED

Examiner

Stephen A Vu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 15-33,42 and 43 is/are pending in the application.
- 4a) Of the above claim(s) 29-33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15-28 and 42-43 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments, see Appeal Brief, filed October 6, 2003, with respect to the rejection of claim 15 has been fully considered and is persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of GB 2038382.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baker in view of GB 2038382.

Baker shows a lounge chair, as illustrated in Figures 2-5, comprising a frame having longitudinal and transverse bars (1-4) with spring elements (D) held by the frame. The spring elements being made of a rubber material held under pre-strained between longitudinal bars and forming a supporting surface covering the frame. A first prestress of the rubber material at right angle to the longitudinal bars in a first section is different from a second prestress of the rubber material at a right angle to the longitudinal bars in a second section. However, Baker does not disclose the rubber material to be of an elastic textile.

GB 2038382 teaches an elastic textile product consisting of a knitted fabric having rubber threads (8) and polyester (7). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use an elastic textile product with rubber threads and polyester as taught by GB 2038382 in lieu of the rubber material of Baker in order to provide an improved resilient stretchable fabric to be tensioned between the bars.

With claim 16, outer contours (23,24,25,26) of the textile structure are held under prestress at the longitudinal bars and at the transverse bars.

With claim 17, supports (4-5) are provided beneath the textile structure.

With claim 18, the supports (4-5) are attached to rails which are movable in a direction of the longitudinal bars.

Claims 19-22 and 42-43 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Baker in view of GB 2038382 and Abu-Isa et al.

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Baker discloses the claimed invention except for employing cushions on the textile structure. Abu-Isa et al teach the placement of cushions (16) on the textile structure. It would have been obvious to one of ordinary skill in the art at the time the invention was made to place cushions on the textile structure of Baker's chair as taught by Abu-Isa et al, in order to provide soft comfort support to the user's body.

Claim 23-28 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Baker in view of GB 2038382 and Bartz.

Baker discloses the claimed invention except for the longitudinal bars to be foldable and have articulated axles. Bartz teaches a foldable mattress support comprising an articulated axle (24) for allowing the head section (14) to be pivoted relative to foot section (15). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide an articulated axle (24) of Bartz's invention in lieu of the cross bar of Baker's chair in order to allow the backrest of the chair to be pivoted relative to the seat section.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Holliday and Pope, Jr. are cited as showing similar types of elastic textile.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen A Vu whose telephone number is 703-308-1378. The examiner can normally be reached on M-F, 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M Cuomo can be reached on 703-308-0827. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



Peter M. Cuomo  
Supervisory Patent Examiner  
Technology Center 3600



Stephen Vu  
Patent Examiner  
December 23, 2003